

## REMARKS

### *I. Claim Rejections under 35 U.S.C. § 102(b)*

The Examiner has rejected claims 1 and 3-7 as being anticipated by U.S. Patent No. 4,476,595 (the “Ikeda” reference). The Examiner concluded that Ikeda discloses each one of the elements in these rejected claims. The applicants respectfully traverse this conclusion because Ikeda does not disclose each element in these claims. As discussed in detail below, the present invention is directed to a grid that is not integral with the frame, and each one of the claims includes fasteners which, in cooperative relationship with the attachment strips, connect the grid to the frame. Ikeda discloses a grid that is integral with the frame, and Ikeda fails to disclose any fastener connecting the grid to the frame. Additionally, with the integral grid and frame, Ikeda has no need of attachment strips and fails to disclose the invention in as complete detail as disclosed in the unamended claims, a substantially uniplaner, non-woven grid integrally formed with a pair of attachment strips. Finally, claim 1 has been amended to recite the grid’s pre-stretched and stretched configurations and the attachment of the stretched configuration to the frame, further differentiating the present invention from the prior art references, including Ikeda.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

#### ***A. Comparison of Rejected Claims with Ikeda Reference***

The invention set forth in claim 1 includes a frame, a substantially uniplaner, non-woven grid that includes a pair of integrally formed attachment strips and fasteners connecting the grid

to the frame. Ikeda discloses a substantially uniplaner, non-woven grid (net 28) that is integrally formed with the frame (26), thereby forming protection layer (22) that also serves as a reinforcing member. See Ikeda, Figures 2-3, Column 3, lines 34-41. According to Ikeda, it is a particular object of the prior invention that the protection layer (22) should also serve as the reinforcing member. See Ikeda, Column 2, lines 3-5. Accordingly, "the protection layer 22 is made of synthetic resin and includes the frame 22 and net 28 formed integral thereto." Ikeda, Column 3, lines 56-59 (emphasis added). Ikeda discloses a grid that is integral with the frame, but fails to disclose a grid that is integral with attachment strips but is not integral with the frame. Ikeda also fails to disclose or suggest fasteners for attaching the grid to the frame. Ikeda does not have any fasteners connecting the grid to the frame because one of the purposes of the invention in Ikeda was to omit the fasteners (clips) between the frame (reinforcing member) and the grid (protection layer). See Ikeda, Column 2, lines 24-28. Therefore, applicants submit that Ikeda fails to disclose each element of the present invention and respectfully traverse the conclusion that Ikeda anticipates claim 1 as originally filed. Specifically, Ikeda fails to disclose the combination of a frame, a grid with integral attachment strips that is not integral with the frame and fasteners that connect the grid to the frame. Ikeda fails to disclose attachment strips and fasteners because the grid is integral with the frame.

Claim 1 of the present invention particularly recites a "plurality of fasteners" to connect the grid to the frame. As discussed above, Ikeda does not connect the grid to the frame through fasteners because the frame and net are integral. The only fasteners disclosed by Ikeda are clips (44) that are used for connecting the frame to the end turns (15) of the coil springs (14) and to an additional reinforcing member, such as frame wire (64). See Ikeda, Column 5, lines 9-25. However, the clips (44) do not connect the grid to the frame. Therefore, Ikeda also fails to disclose or suggest the claimed cooperative relationship between the fasteners and the grid and frame, connecting the grid to the frame. For this additional reason,

applicants respectfully traverse the conclusion that Ikeda anticipates claim 1 as originally filed. Even in the case where the fasteners are integral with the attachment strips and the grid, as with the J-strips recited in claim 2 and claim 10, these fasteners connect the grid to the frame rather than being integral with the frame.

With regard to claim 6, Ikeda and the prior art references fail to disclose or suggest attachment strips that are formed from pre-stretched grid sections and are integral with the grid. Even if the Examiner broadly interprets portions of the grid in the Ikeda reference as being a pre-stretched grid section, these sections cannot be attachment strips according to the claimed invention because the claimed attachment strips are connected to the frame through fasteners. As discussed above with regard to claim 1, no portion of the grid in Ikeda is connected to the frame through fasteners. Therefore, applicants respectfully traverse the conclusion that Ikeda anticipates claim 6.

With regard to claim 7, Ikeda and the prior art references fail to disclose or suggest attachment strips that are integral with the grid and are formed with an embedded wire. The only wires disclosed in Ikeda are the coil springs (14) and the frame wire (64). However, rather than being embedded in an attachment strip that connects the grid to the frame, Ikeda teaches that these wires are connected to the frame through clips (44) and heat-sealed flanges (27) and do not connect the grid to the frame, as set forth in Column 4, lines 30-46 and Column 5, lines 9-25, respectively. Therefore, applicants respectfully traverse the conclusion that Ikeda anticipates claim 7 as originally filed.

#### ***B. Claims 1 and 3 as Amended***

For the reasons set forth above, Ikeda fails to anticipate claims 1 and 3 without amendment. However, to speed the prosecution of the application and to further differentiate the present invention from the prior art references, including Ikeda, claim 1 has been amended

to recite the grid's pre-stretched and stretched configurations. Additionally, claim 1 has also been amended to particularly recite the attachment of the grid's stretched configuration to the frame. As discussed above, the grid in Ikeda is integrally formed with the frame. Therefore, the grid has only a single configuration. It does not have multiple configurations, whereas the present invention has a first pre-stretched configuration that is stretched into a stretched configuration which fits in the frame. Claim 3 has been amended to recite additional details about the grid configurations set forth in claim 1. The amendments to the claims are supported by the specification and no new matter is added thereby.

The prior art references fail to disclose or suggest the invention as set forth in the amended claims, especially considering the detail with which the invention is recited therein and the cooperative relationships between the elements that are also claimed. In particular, Ikeda and the other prior art references fail to disclose or suggest a substantially uniplaner, non-woven grid that has a pair of integrally formed attachment strips and also has pre-stretched and stretched configurations, wherein fasteners connect the stretched configuration of the grid to the frame through the attachment strips. As discussed on page 6 of the specification, the grid of the present invention differs from the prior art because it does not use a weave of individual filaments, nor does it use separate border elements that connect individual filaments, nor does it have a sliced sheet pulled into a grid with twisted strips. Further, the prior art references fail to disclose the grid as claimed with the pre-stretched grid configuration and the stretched grid configuration. Additionally, there is no suggestion or motivation in the prior art to combine the teachings of the references in a manner that would render the claimed invention as obvious. Therefore, applicants submit that claims 1 and 3 as amended are neither disclosed in nor suggested by the prior art references, including Ikeda, and request that the Examiner consider the allowability of these claims over the prior art.

## **II. Rejections under 35 U.S.C. § 103**

The Examiner has rejected claims 2 and 10-14 as being unpatentable over Ikeda in view of U.S. Patent No. 5,582,463 (the "Linder" reference). The Examiner concludes that it would have been obvious to modify the suspension article of Ikeda with the J-strip fasteners of Linder in order to support the occupant better. The applicants respectfully traverse this conclusion because there is no suggestion or motivation for combining Ikeda with Linder. Additionally, even if Ikeda and Linder were combined, they fail to teach or suggest each element in the rejected claims. Finally, claim 10 has been amended to recite the grid's pre-stretched and stretched configurations and the attachment of the stretched configuration to the frame, further differentiating the present invention from the prior art references.

In 1966, the Supreme Court set forth the factual inquiries required to determine obviousness. *Graham v. John Deere*, 383 U.S. 1 (1966). To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the combined prior art references must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the disclosure of the present invention. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). For the reasons discussed below, a prima facie case of obviousness has not been made as required by the Graham test, and the rejection under 35 U.S.C. §103(a) is respectfully traversed.

#### **A. N Prima Facie Case of Obviousness**

As discussed with respect to claim 1 above, Ikeda discloses a grid that is integral with the frame. Ikeda particularly differentiates its integral grid and frame from the prior art which had used clips to connect the protection layer's grid with the reinforcing member's frame. See Ikeda, Column 1, lines 5-67 and Column 2, lines 3-5. Not only does Ikeda fail to provide any suggestion or motivation to use a J-strip fastener, Ikeda explicitly teaches away from using any kind of fastener between the grid and the frame. A prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention.

*W.L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Although Linder teaches the use of J-strip fasteners to connect a suspension mat to a frame, the frame is not integral with the mat. Linder fails to provide any suggestion or motivation J-strip fasteners could be used with a grid that is integrally formed with the frame. Therefore, applicants submit that a prima facie case of obviousness has not been met because there is no suggestion or motivation to combine the teachings of the references or to otherwise modify Ikeda according to Linder.

The Linder reference is particularly discussed as related art in the background section of the present invention, on page 2 of the pending application. The Linder reference discloses J-strip fasteners that are sewn or molded onto the suspension articles. In comparison, according to claims 2 and 10 of the present invention, the J-strip fasteners are integrally formed with the attachment strips and the grid. Absent the applicants' invention, the prior art references fail to provide any reasonable expectation of success for the present invention because Linder attaches J-strip fasteners to the suspension article rather than integrally forming the J-strip fasteners therewith, and Ikeda forms the grid integrally with the frame without any fastener connecting the grid to the frame. Therefore, applicants submit that a prima facie case of

obviousness has not been met for another reason - because the prior art references fail to provide any reasonable expectation of success.

Although there is no motivation in the prior art to combine the Ikeda and Linder references, such a combination would fail to teach the present invention as set forth in claims 2 and 10. According to the present invention, the J-strip fasteners are integrally formed with the substantially uniplaner, non-woven grid. However, the combination of Linder and Ikeda would teach sewing or molding the J-strip fasteners onto a substantially uniplaner, non-woven grid. Therefore, applicants submit that a *prima facie* case of obviousness has not been met for yet another reason - because the prior art references fail to teach or suggest the present invention as set forth in the claims.

***B. Claim 10 as Amended***

For the reasons set forth above, claim 10 without amendment is not obvious based on the Ikeda and Linder references. However, to speed the prosecution of the application and to further differentiate the present invention from the prior art references, including Ikeda and Linder, claim 10 has been amended to recite the grid's pre-stretched and stretched configurations and the attachment of the stretched configuration to the frame. The prior art references fail to disclose or suggest the invention as set forth in the amended claim. In particular, Ikeda and Linder fail to suggest a substantially uniplaner, non-woven grid that has a pair of integrally formed J-strips and also has pre-stretched and stretched configurations, wherein the J-strips connect the stretched configuration of the grid to the frame. As discussed above, the J-strips in Linder are not integrally formed with the suspension article. Additionally, the suspension article is merely pulled tightly over the frame; it does not change from an initial pre-stretched configuration to a different stretched configuration that is then pulled tightly over the frame. See Linder, Column 2, lines 55-64. Further, as discussed with regard to amended

claim 1 above, the grid as claimed does not use a weave of individual filaments, nor does it use separate border elements that connect individual filaments, nor does it have a sliced sheet pulled into a grid with twisted strips. Therefore, applicants submit that claim 10 as amended is not disclosed in or suggested by the prior art references and request that the Examiner consider the allowability of the claim.

### ***C. Dependent Claims***

The Examiner concluded that claim 8, which depends from claim 1, includes allowable subject matter. The actuated fastener aspect of the present invention is set forth in claim 8. Similarly, Claim 11 depends from claim 10 and is particularly directed toward an actuated J-strip fastener. As with claim 8, the references fail to disclose or suggest the actuated fastener aspect of claim 11. Therefore, applicants submit that claim 11 is also directed toward allowable subject matter.

Claims 12-14 each depend from and include all the limitations of claim 10. Therefore, applicants submit that these claims are drawn to patentable subject matter for the same reasons as claim 10.

### ***III. Allowable Subject Matter & New Claims***

The Examiner has concluded that claim 8 is directed to allowable subject matter and that each one of these claims would be allowable if rewritten in independent form, including all of the limitations of the base claim and any intervening claims. Claim 8 directly depends from claim 1 without any intervening claim and would be allowable in independent form by incorporating the limitations from claim 1. Claim 21 incorporates the allowable subject matter of claim 8 into claim 1 as originally filed. Therefore, as the logical corollary to the Examiner's

conclusion, applicant submits that claim 21 is allowable by combining the allowable subject matter of claim 8 with independent claim 1.

Claim 23 incorporates the subject matter of claim 6 with claim 1 as originally filed. As discussed above with regard to claim 6, Ikeda and the prior art references fail to disclose or suggest attachment strips that are formed from pre-stretched grid sections and are integral with the grid. Even if the Examiner broadly interprets the border portions of the grid or frame in the Ikeda reference as being a pre-stretched border element, these sections cannot be attachment strips according to the claimed invention because the claimed attachment strips are connected to the frame through fasteners. Therefore, applicants submit that claim 23 and its dependent claim are allowable over the prior art of record.

Claim 25 and its dependent claims are particularly directed toward the inventive aspects of the substantially uniplaner, non-woven grid, including primary members and points of intersection that are integrally formed with the attachment strips. Additionally, these new claims recite the grid's pre-stretched and stretched configurations with details about the structure of the primary members and the attachment strips in each one of the grid's configurations which are not disclosed in or suggested by the prior art references. The claims are supported by the specification and no new matter is added thereby. The claimed substantially uniplaner, non-woven grid of the present invention also differs from the prior art references because it does not use a weave of individual filaments, nor does it use separate border elements and ribs that connect individual filaments, nor does it have a sliced sheet pulled into a grid with twisted strips. Applicants submit that these new claims are drawn to an aspect of the present invention that is neither disclosed in nor suggested by the prior art references, and submit that these claims are allowable over the prior art of record.

#### **IV. Conclusion**

Accordingly, Applicants respectfully submit that the independent claims are allowable over the prior art of record, including the Ikeda and Linder references. For similar reasons, and for the additional reasons set forth above, applicants urge that the dependent claims are also allowable.

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, she is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

By: Dennis JM Donahue III, Reg. No. 43,591  
Husch & Eppenberger, LLC  
190 Carondelet Plaza  
St. Louis, MO 63105  
314-480-1642  
314-290-5342 FAX